

TENNESSEE REGULATORY AUTHORITY

Pat Miller, Chairman
Deborah Taylor Tate, Director
Sara Kyle, Director
Ron Jones, Director



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2005 FEB -9 PM 3:06
60 James Robertson Parkway
Nashville, Tennessee 37243-0505

T.R.A. DOCKET ROOM

February 9, 2005

Mr. Henry Walker, Esq.
Boult, Cummings, Conners & Berry
1600 Division Street, Suite 700
Nashville, TN 37203-0025

Re: Complaint of King's Chapel Capacity, LLC Against
Tennessee Wastewater Services
TRA Docket No. 05-00016

Dear Mr. Walker:

Enclosed please find a copy of a letter filed by King's Chapel Capacity on January 14, 2005 alleging a Complaint against Tennessee Wastewater Services ("TWS"). The entire Complaint, with attachments, can be accessed through the TRA website under the above captioned docket. This agency has recently learned that TWS was not served with this Complaint or otherwise notified at the time of its filing. Consistent with TRA Rule 1220-1-2-.03, please provide a response to this Complaint within thirty days of the date of this letter, or no later than March 11, 2005.

Should you have any questions, please do not hesitate to contact me at 615-741-2904, Ext. 170.

Very truly yours,

J. Richard Collier
General Counsel

c: Docket File No. 05-00016
John Powell, King's Chapel Capacity

Enclosure

RECEIVED

2005 JAN 14 PM 4:02

TRA DOCKET ROOM

Kings Chapel Subdivision
John Powell
Kings Chapel Capacity, LLC
1413 Plymouth Dr.
Brentwood, TN 37027

January 14, 2005

DOCKET NO.

05-00016

Chairman Pat Miller
Attn: Sharla Dillon
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

RE: Formal Complaint by King's Chapel Capacity, LLC against Tennessee
Wastewater Services regarding Abuse of its CCN.

Dear Chairman Miller:

King's Chapel Capacity, LLC ("KCC") hereby files this formal complaint against Tennessee Wastewater Services ("TWS") regarding abuse of the authority and privileges afforded them under the CCN granted by the Tennessee Regulatory Authority ("TRA").

Specifically, KCC states that TWS has abused the rights granted to it under the CCN by the TRA. The following constitute a summary of those demands but are not intended to be a complete list of all wrongdoing:

1. In order for KCC or a customer to obtain wastewater service from TWS, TWS demanded that KCC use TWS's affiliates for all wastewater construction and materials at a significant markup over cost.¹ If KCC was unwilling to use TWS affiliates for construction, then TWS would refuse to provide utility service and maintenance to KCC and represented that no one else could provide this service since TWS had an approved exclusive CCN from the TRA for this area. TWS made it clear that unless all its demands were met no service would be afforded and no one else could provide it.
2. Additionally, before KCC could obtain wastewater service from TWS, TWS also demanded that KCC contract to pay On Site Capacity Development Co a TWS Affiliate "utility inspection fees" of approximately \$400,000. These utility inspection fees were to be paid to the TWS affiliate, the very same affiliate who constructed the system. All construction and inspection work was required to be completed by licensed contractors under the laws of the

¹ In addition, KCC has attached affidavits from the appropriate state agencies that these affiliates lacked the necessary engineering and contractors licenses required to construct a wastewater system

State of Tennessee. Notwithstanding this fact, neither TWS nor its affiliate Onsite Capacity Development Company were licensed contractors.

3. TWS additionally demanded that (KCC) pledge assets and post all local bonds and pay the bonding costs associated with this process. This is clearly and obligation of TWS. TWS then separately charges rate payers for this same cost under it's tariff. This essentially "doubles up" the bonding costs to the rate payer by first requiring KCC or the developer to pledge, post, and pay for bond and then requiring the end user rate payer to pay for this bond in their monthly rates. However, the bond cost was only paid once and then not by TWS but by KCC.
4. Finally, KCC states that TWS' abuse of its asserted monopoly power has been systematic and has occurred over a long period of time. Further, this pattern of abuse has already been applied to other CCN's approved by the TRA for TWS resulting in significant overcharges to TWS customers through higher lot prices.

KCC would point out that the Uniform System of Accounts adopted by the TRA for wastewater utilities requires that all entries to plant-in-service be made at cost (without markup) and that TWS has circumvented these rules through transactions with its wholly owned affiliates. In addition, TWS has mandated the use of their affiliates before service would be provided, resulting in an indirect tariff rate for construction costs that has not been approved by the TRA. Also, since these mandated construction costs vary by location, they result in discriminatory rates in violation of TRA rules. Finally, KCC would point out that none of the construction, bonding or inspection revenues received by TWS are reported on TWS financial statements to the TRA, thereby resulting in evasion of TRA Inspection Fees and Tennessee Gross Receipts taxes.

After KCC discovered this pattern of abuse, it sought to apply for its own CCN in Docket 04-00335. However, the disputes between KCC and TWS in this docket are related solely to service territory and do not involve the monopoly abuse issues mentioned in this complaint.

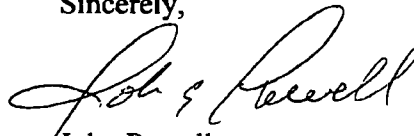
In support of its complaint, KCC submits the following attached evidence for the TRA's consideration:

1. Allegation of violations by TWS submitted to the Tennessee Department of Environment & Conservation.
2. Allegation of violations by TWS submitted to the Tennessee Attorney General's Office.

3. Affidavits from Tennessee state agencies documenting the non-existence of necessary engineering and contractors licenses by TWS to construct a wastewater system.
4. Attorney affidavit regarding TWS business practices, abuse of monopoly power and forged documents.
5. Documentation regarding the quoted price of a constructed wastewater system to KCC from TWS.
6. TWS documentation of additional steps required before a planning document could be filed in Williamson County.
7. Documentation on other contracts offered to KCC by TWS.

Thank you for your prompt attention to this matter. If you have any questions, or if I may be of further assistance, please do not hesitate to contact me either by mail or by phone at 615-370-4432.

Sincerely,



John Powell

General Manager for King's Chapel Capacity

Attachments